



TEXTS ADOPTED

P9_TA(2024)0224

Request for waiver of the immunity of Gunnar Beck

European Parliament decision of 11 April 2024 on the request for waiver of the immunity of Gunnar Beck (2023/2192(IMM))

The European Parliament,

- having regard to the request of the Chief Public Prosecutor in Düsseldorf for waiver of the immunity of Gunnar Beck, transmitted by letter dated 25 July 2023 by the German Federal Ministry of Justice and Consumer Protection, in connection with a preliminary investigation into suspected criminal offences, and announced in plenary on 11 September 2023,
- having heard Gunnar Beck in accordance with Rule 9(6) of its Rules of Procedure,
- having regard to Articles 8 and 9 of Protocol No 7 on the Privileges and Immunities of the European Union and to Article 6(2) of the Act of 20 September 1976 concerning the election of the Members of the European Parliament by direct universal suffrage,
- having regard to the judgments of the Court of Justice of the European Union of 21 October 2008, 19 March 2010, 6 September 2011, 17 January 2013 and 19 December 2019¹,

¹ Judgment of the Court of Justice of 21 October 2008, *Marra v De Gregorio and Clemente*, C-200/07 and C-201/07, ECLI:EU:C:2008:579; judgment of the General Court of 19 March 2010, *Gollnisch v Parliament*, T-42/06, ECLI:EU:T:2010:102; judgment of the Court of Justice of 6 September 2011, *Patriciello*, C-163/10, ECLI:EU:C:2011:543; judgment of the General Court of 17 January 2013, *Gollnisch v Parliament*, T-346/11 and T-347/11, ECLI:EU:T:2013:23; judgment of the Court of Justice of 19 December 2019, *Junqueras Vies*, C-502/19, ECLI:EU:C:2019:1115.

- having regard to Article 46(2), (3) and (4) of the Basic Law of the Federal Republic of Germany and Article 192b of the *Richtlinien für das Strafverfahren und das Bußgeldverfahren*,
 - having regard to Rule 5(2), Rule 6(1) and Rule 9 of its Rules of Procedure,
 - having regard to the report of the Committee on Legal Affairs (A9-0170/2024),
- A. whereas the Chief Public Prosecutor in Düsseldorf has requested the waiver of the immunity of Gunnar Beck, MEP elected in Germany, with a view to initiating preliminary proceedings for theft of low-value property in combination with intentional bodily injury and resistance to law enforcement officials, pursuant to sections 242(1), 248a, 223(1), 230(1) sentence 1, 113(1) and 53 of the German Criminal Code;
- B. whereas, on 29 October 2022 in a department store in Neuss (Germany), Gunnar Beck allegedly took some sample of tester products on display for customers to try out, with, allegedly, a view to taking them away without paying for them; whereas a shoplifting offence was reported; whereas Gunnar Beck allegedly tried to leave the premises and the store detectives restrained him; whereas, afterwards, law enforcement officials intervened on the scene and, allegedly, Gunnar Beck did not comply with their requests to not resist;
- C. whereas the alleged offences do not concern opinions expressed or votes cast in the performance of the duties of a Member of the European Parliament within the meaning of Article 8 of Protocol No 7 on the Privileges and Immunities of the European Union;
- D. whereas Article 9 of Protocol No 7 on the Privileges and Immunities of the European Union provides that Members of the European Parliament enjoy, in the territory of their own state, the immunities accorded to members of their parliament;
- E. whereas Article 46(2), (3) and (4) of the Basic Law of the Federal Republic of Germany provides:
- ‘(2) A Member may not be called to account or arrested for a punishable offence without permission of the Bundestag, unless he is apprehended while committing the offence or in the course of the following day.
- (3) The permission of the Bundestag shall also be required for any other restriction of a Member’s freedom of the person or for the initiation of proceedings against a Member under Article 18.

(4) Any criminal proceedings or any proceedings under Article 18 against a Member and any detention or other restriction of the freedom of his person shall be suspended at the demand of the Bundestag.’;

- F. whereas Article 192b of the *Richtlinien für das Strafverfahren und das Bußgeldverfahren* [Guidelines for criminal proceedings and fines] governs waivers of the immunity of Members of the European Parliament, and whereas, in particular, paragraph 1 thereof provides as follows:

‘(1) *Einem Mitglied des Europäischen Parlaments aus der Bundesrepublik Deutschland steht die einem Abgeordneten des Deutschen Bundestages zuerkannte Immunität zu. (...)*’ [A Member of the European Parliament from the Federal Republic of Germany shall be entitled to the immunity granted to a Member of the German Bundestag];

- G. whereas Parliament cannot assume the role of a court, and whereas, in a waiver of immunity procedure, a Member cannot be regarded as a ‘defendant’¹;
- H. whereas the purpose of parliamentary immunity is to protect Parliament and its Members from legal proceedings in relation to activities carried out in the performance of parliamentary duties and which cannot be separated from those duties;
- I. whereas in this case, Parliament has found no evidence of *fumus persecutionis*, i.e. factual elements which indicate that the intention underlying the legal proceeding may be to damage a Member’s political activity and thus the European Parliament;
1. Decides to waive the immunity of Gunnar Beck;
 2. Instructs its President to forward this decision and the report of its committee responsible immediately to the competent authority of the Federal Republic of Germany and to Gunnar Beck.

¹ Judgment of the General Court of 30 April 2019, *Briois v Parliament*, T-214/18, EU:T:2019:266.